

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

MILLIS STOKES,

Plaintiff,

v.

Civil Action No. 3:10cv370

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF CORRECTIONS,

Defendant.

ORDER

By Order entered herein on December 8, 2011 the pending DEFENDANTS' MOTION FOR SUMMARY JUDGMENT (Docket No. 47) and PLAINTIFF'S MOTION TO SUPPORT THE CONTINUED COMPLAINT AGAINST THE COMMONWEALTH OF VIRGINIA (Docket No. 49) were referred to Magistrate Judge M. Hannah Lauck for report and recommendation.

Having reviewed the REPORT AND RECOMMENDATION of the Magistrate Judge (Docket No. 53) entered herein on August 17, 2012, the PLAINTIFF'S MOTION IN RESPONSE TO THE REPORT AND RECOMMENDAITON ISSUED BY U.S. MAGISTRATE JUDGE M. HANNAH LUACK, DATED AUGUST 17, 2012, TO SUPPORT THE CONTINUED COMPLAINT AGAINST THE COMMONWEALTH OF VIRGINIA, DEPARTMENT OF CORRECTIONS (Docket No. 54), the DEFENDANT'S REPLY TO PLAINTIFF'S RESPONSE/OBJECTIONS TO THE MAGISTRATES [sic] REPORT AND RECOMMENDAITON (Docket No. 55), and having considered the record and the REPORT AND RECOMMENDATION and finding no error therein, it is hereby ORDERED that:

(1) The PLAINTIFF'S MOTION IN RESPONSE TO THE REPORT AND RECOMMENDAITON ISSUED BY U.S. MAGISTRATE JUDGE M. HANNAH LAUCK, DATED AUGUST 17, 2012, TO SUPPORT THE CONTINUED COMPLAINT AGAINST THE COMMONWEALTH OF VIRGINIA, DEPARTMENT OF CORRECTIONS (Docket No. 54), is overruled;

(2) The REPORT AND RECOMMENDATION of the Magistrate Judge (Docket No. 53) is ADOPTED on the basis of the reasoning of the REPORT AND RECOMMENDATION;

(3) The DEFENDANTS' MOTION FOR SUMMARY JUDGMENT (Docket No. 47) is granted;

(4) The PLAINTIFF'S MOTION TO SUPPORT THE CONTINUED COMPLAINT AGAINST THE COMMONWEALTH OF VIRGINIA (Docket No. 49) is denied; and

(5) The Complaint is dismissed with prejudice and this action is closed.

The issues are adequately addressed by the briefs and oral argument would not materially aid the decisional process.

This Order may be appealed by the plaintiff]. Any appeal from this decision must be taken by filing a written notice of appeal with the Clerk of the Court within thirty (30) days of the date of entry hereof. Failure to file a timely notice of appeal may result in the loss of the right to appeal.

It is so ORDERED.

/s/

REP

Robert E. Payne
Senior United States District Judge

Richmond, Virginia

Date: September 24, 2012